

**AMENDMENT TO MR. TAUZIN'S AMENDMENT
OFFERED BY MR. ALLEN**

(Page & line nos. refer to Chairman's Mark of June 17, 2003)

In section 1807(i) of the Social Security Act (as proposed to be inserted by section 105) add at the end the following new paragraph:

1 “(7) GUARANTEE OF LOWEST PRICE FOR DRUGS FOR
2 BENEFICIARIES.—

3 “(A) IN GENERAL.—Each participating manufac-
4 turer of a covered outpatient drug shall enter into ar-
5 rangements with eligible entities offering the endorsed
6 programs under this section to make available for pur-
7 chase by such entities such covered outpatient drug at
8 the price described in subparagraph (B). Those entities
9 shall make available such prescription drugs to medi-
10 care beneficiaries enrolled under the endorsed program
11 at that price.

12 “(B) DESCRIPTION OF PRICE.—The price at which
13 a participating manufacturer shall make a covered out-
14 patient drug available for purchase by a pharmacy is
15 a price no greater than the manufacturer's average for-
16 eign price.

17 “(C) DEFINITIONS OF PARTICIPATING MANUFAC-
18 TURER.—In this paragraph:

19 “(i) PARTICIPATING MANUFACTURER.—The
20 term ‘participating manufacturer’ means any man-
21 ufacturer of drugs or biologicals that, on or after
22 the date of the enactment of this section, enters
23 into a contract or agreement with the United
24 States for the sale or distribution of covered out-
25 patient drugs to the United States.

26 “(ii) AVERAGE FOREIGN PRICE.—

1 “(I) IN GENERAL.—The term ‘average for-
2 eign price’ means, with respect to a covered
3 outpatient drug, the average price that the
4 manufacturer of the drug realizes on the sale
5 of drugs with the same active ingredient or in-
6 gredients that are consumed in covered foreign
7 nations, taking into account—

8 “(aa) any rebate, contract term or
9 condition, or other arrangement (whether
10 with the purchaser or other persons) that
11 has the effect of reducing the amount real-
12 ized by the manufacturer on the sale of the
13 drugs; and

14 “(bb) adjustments for any differences
15 in dosage, formulation, or other relevant
16 characteristics of the drugs.

17 “(II) EXEMPT TRANSACTIONS.—The Sec-
18 retary may, by regulation, exempt from the cal-
19 culation of the average foreign price of a drug
20 those prices realized by a manufacturer in
21 transactions that are entered into for charitable
22 purposes, for research purposes, or under other
23 unusual circumstances, if the Secretary deter-
24 mines that the exemption is in the public inter-
25 est and is consistent with the purposes of this
26 paragraph.

27 “(iii) COVERED FOREIGN NATION.—The term
28 ‘covered foreign nation’ means Canada, France,
29 Germany, Italy, Japan, and the United Kingdom.